

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROCEDURE TO REMOVE NONBANKRUPTCY JUDGMENT LIENS FROM PROPERTY CLAIMED AS A HOMESTEAD; PROVIDING FOR EXTINGUISHMENT OF A LIEN IF THE PROCEDURE IS FOLLOWED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, Article XIII, section 5, of the Montana Constitution requires the Legislature to enact liberal homestead and exemption laws; and

WHEREAS, judgment liens are not enforceable against real property claimed as a homestead; and

WHEREAS, under current law, the burden is on a judgment debtor to claim a homestead exemption to clear title to the claimed homestead, usually in the form of a quiet title action; and

WHEREAS, this procedure is not efficient or cost-effective and often results in an encumbrance on the judgment debtor's property despite the property's exempt status; and

WHEREAS, the Legislature desires to provide a cost-effective and efficient procedure for claiming a homestead exemption from a judgment lien.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Homestead -- removal of judgment lien -- procedure.** (1) A judgment debtor who claims a homestead exemption on real property that has been selected as a homestead and on which a declaration of homestead has been filed, as required by 70-32-105, may serve a written demand on the judgment creditor. The demand must state that the lien and all benefits derived from the lien, as to the real property claimed as a homestead, be forfeited unless the judgment creditor levies execution against the real property within 30 days from the date of service of the written demand. The judgment debtor shall serve written notice in the manner authorized for service of original notice under the Montana Rules of Civil Procedure. The judgment debtor shall file a copy of the demand letter and proof of service in the county where the property claimed as a homestead is located.

(2) Upon filing of a copy of the demand letter and proof of service as required in subsection (1), a lien forfeited under subsection (1) is extinguished and any rights of a judgment creditor to the subject property are

1 terminated.

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3 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
4 integral part of Title 70, chapter 32, part 2, and the provisions of Title 70, chapter 32, apply to [section 1].

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6 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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